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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,697	07/28/2003	Jan C. Gyure	GJH-100-A	5176

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CHARLES W CHANDLER
33150 SCHOOLCRAFT
LIVONIA, MI 48150

EXAMINER

SLACK, NAKO N

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,697

Applicant(s)

GYURE ET AL.

Examiner

Naoko Slack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

On page 2, line 1, "issu d" appears to be a typographical error.

On page 6, line 1, "mount d" appears to be a typographical error.

The disclosure is objected to because on page 6, lines 5-6, "one grip padding 38, then one rubber grip padding 36 and finally one grip padding 38" appears to be in error. However, if this description of layering was intended, the drawings are in error for not illustrating this feature and must be corrected.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "one grip padding 38, then one rubber grip padding 36 and finally one grip padding 38" as described in the specification (page 6, lines 5-6).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Numeral 50 in Figure 5 is not described in the specification.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "40" has been used to designate both an opening in Figures 3 and 4 and a flange in Figure 5.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objection

In claim 1, line 23, "circumfer nce" appears to be a typographical error.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the first mentioned rail" in line 2. There is insufficient antecedent basis for this limitation in the claim. This error could be correct by inserting the phrase - - as defined in claim 1 - - after "assembly" in line 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,337,528 to Jaworski et al. in view of US patent 6,364,257B1 to Holder.

Claim 1:

Jaworski et al. discloses a child's handrail assembly mounted from an existing handrail (16), the child's handrail assembly comprising an elongated post (50) which spaces the existing handrail from the child's handrail and a strap (40) with a buckle for

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connecting the original handrail to a child's handrail (20). While Jaworski et al. discloses one strap and not two disparate straps, a connecting apparatus that connects two poles with disparate strap means is well known in the art.

For example, Holder discloses an assembly that connects two poles with disparate strap means (Figure 2). Specifically, Holder discloses an assembly comprising an elongated post (Figure 4) having a first buckle-receiving opening (34 at left, Figure 3) at a first end thereof and a second buckle receiving opening (34 at right, Figure 3) at the opposite, second end thereof, a resilient pawl (35, Figure 3) mounted in each of said buckle receiving openings and biased toward one side of their respective buckle-receiving openings and a strap-locking position, but movable against the bias of the panel toward an opposite side of the buckle receiving opening and a strap release position, the pawl having a tooth thereon, a first strap having a first end attached to the first end of the post, and a free end receivable in the first buckle-receiving opening, the first strap having a series of teeth (31) engageable with the pawl of the first buckle-receiving opening to define a first strap opening suitable for engaging a first pole (18); a second strap having a first end attached to the second end of the post, and a free end receivable in the second buckle-receiving opening, the second strap having a series of teeth (31) engageable with the pawl of the second buckle-receiving opening to define a second strap opening suitable for engaging a second pole (20) in a position parallel to the first handrail position and separated according to the length of the post; a pole (20) received in the second strap opening such that by pulling the free end of the second strap, the second circumference of the strap tightly engages the pole.

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In view of Holder, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use two straps with pawl and tooth connecting means on the ends of a post, as Jaworski et al. is concerned with maintaining the child's handrail in a substantially stationary, spaced position with respect to the original handrail (column 3, lines 9-13). Furthermore, Jaworski et al. admits that there are other techniques for suspending the child handrail below an existing rail (column 7, lines 1-22).

Claim 2:

Holder's pawl (35) comprises a distal tab on the end of the pawl which may be depressed to release the strap.

Claim 3:

Jaworski et al. discloses a child's handrail assembly including a second rail (22) having one end thereof disposed adjacent an end of a first rail (22) and a coupling (24) for connecting one end of the first rail to an end of the second rail.

Claim 6:

Holder discloses that the teeth on each of said strap is disposed on the opposite side of the strap with respect to the opening defined by the strap when the free end is connected to the post (column 1, lines 64-66).

Claim 7:

Holder discloses that one end of each strap is attached to the post closely adjacent its' respective buckle-receiving opening (34, Figure 3).

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Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,337,528 to Jaworski et al. in view of US patent 6,364,257B1 to Holder as applied to claim 1 above and further in view of US Patent 6,209,854B1 to Sedlack et al.

Claim 5:

While Jaworski et al. fails to disclose padding between the strap and handrail, such an assembly is known in the art. Sedlack et al. discloses a child's handrail suspended from an existing handrail using a strap a padding (64) located between the strap and handrail to preclude rotation or sliding. In view Sedlack et al. it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide to provide a padding between the strap and handrail to prevent rotation of the handrail, as Jaworski et al. is concerned with maintaining a substantially stationary position (column 3, lines 3-7).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,337,528 to Jaworski et al. in view of US patent 6,364,257B1 to Holder as applied to claim 1 above and further in view of US Patent 5,853,166A to Koza.

Claim 8:

While Jaworski et al. does not specify handrail end caps, end caps are well known in the handrail art. For example, Koza discloses end caps (28) for finishing the ends of the handrails. It would have been obvious for one of ordinary skill in the art at the time the invention was made to put end caps on Jaworski's handrail for improved aesthetics and to reduce the chances of injury.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The following references are considered relevant prior art:

US Patent 5,966,781A to Geiger.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (571) 272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
September 1, 2005